

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Federal-State Joint Board)
on Universal Service)
)
Comments on the Interim)
Hold-Harmless Provision)

CC Docket No. 96-45

FCC 99J-2

REPLY COMMENTS OF MCI WORLDCOM, INC.

MCI WorldCom, Inc. (MCI WorldCom) hereby submits reply comments in response to the Commission's Public Notice in the above-captioned proceeding,¹ in which the the Federal-State Joint Board on Universal Service sought "comment on schedules and procedures for phasing out or eliminating the interim hold-harmless provision of the Commission's new forward-looking high-cost support mechanism for non-rural carriers." MCI WorldCom is compelled to respond to the comments filed by incumbent local exchange carriers (ILECs) who seek to maintain indefinitely an open-ended hold-harmless provision that would be antithetical to the intent of the Commission and Joint Board to create an interim transitional provision. Any hold-harmless funding is over and above the level identified by the funding mechanism as necessary to meet the universal service requirements of the Act and therefore places an unnecessary burden on consumers, who ultimately must bear the costs of providing these corporate welfare funds to incumbent local exchange carriers (ILECs). The public interest demands that any hold-harmless provision be maintained for as short a time as possible and that

¹ *Federal-State Joint Board on Universal Service Seeks Comment on the Interim Hold-Harmless Provision of the Commission's High-Cost Support Mechanism*, Public Notice, FCC 99J-2, released November 3, 1999.

it have a definite sunset date. MCI WorldCom proposes a sunset date of December 31, 2000.

The ILECs whose subsidies would be reduced under the new funding mechanism present several arguments for an open-ended hold-harmless provision. Each argument is basically the same: the hold-harmless funding should be maintained until all federal and state activities that could in any way, shape, or fashion affect the revenues available to states have been completed, their consequences fully assessed, and, if necessary, new programs put in place. These all represent baseless attempts to extend indefinitely the length of the hold-harmless period.

USTA argues as follows, at p. 3 of its comments:

If the states are to fulfill their obligations, they need to be given an adequate opportunity to determine the effects of the new federal non-rural universal service plan once it is implemented. Then the states will need to develop intrastate universal service plans to ensure that the federal plan does not result in rate shock or residential rates that are not comparable between carriers within the state. The states must be given adequate time to ensure that sufficient intrastate support makes up for any decreases in funding as a result of the new federal non-rural universal service support program. Until that occurs, the current levels of support must be maintained through the federal hold-harmless provision.

The gist of this argument seems to be that industry and state regulators cannot chew gum and walk at the same time. They must take one baby step, then stand back and digest the enormity of that step before taking the next step. USTA fails to recognize that states can move forward and set up their own universal service plans expeditiously and then, if needed, make minor modifications to calibrate the results. Two facts are notable. First, many states already have implemented state universal service mechanisms without waiting for full implementation of the federal fund. Second, no state submitted comments seeking an indefinite, open-ended hold-harmless period. Quite the contrary, several states explicitly seek a one year sunset provision.²

² See, for example, the Comments of the People of the State of California and the California Public Utilities Commission (California) at p. 4 and the Comments of the Public

California submitted data showing that the monthly per line impact on most of the 15 states affected by the new funding mechanism is de minimis.³ And the affected states are among those states that have already taken action on their own. For example, Wyoming already has implemented its own universal service funding mechanism.

The second ILEC argument, also presented by USTA (at pp. 2-3), is that the federal high-cost universal support fund for rural ILECs will not be reviewed by the FCC until January 1, 2001 at the earliest and that states will not know their needs until that process has been completed. Again, the silence of states served largely by rural telephone companies suggests they do not see this as a problem. It would take a very unlikely series of events for the eventual reform (if any) of the high-cost rural universal service fund to erode state-wide revenues in a way that threatens to create rate shock. This is only an attempt to rationalize continued non-rural ILEC feeding at the subsidy trough, at the expense of telecommunications customers.

The third argument, presented by Roseville Telephone Company (at p. 7), is that

phase out of existing USF support should not even be considered until the FCC and the Joint Board complete the comprehensive review of the new explicit mechanism to be completed no later than January 1, 2003.

Delaying elimination of the double payments for three years is absurd. If the new mechanism creates rate shock or other threats to universal service, this will be evident in the first year and cannot be an excuse to maintain the hold-harmless provision for three years.

The fourth argument, made by U S West at p. 3 of its comments, is that the FCC still has not fully implemented the new high-cost support mechanism after three years:

Service Commission of the District of Columbia at p. 1.

³ California Comments at p. 4 and Attachment 2.

It is unreasonable to propose that the 43 states (13 of which are US WEST states) that will receive no federal non-rural high-cost funding receive less time to develop and implement state universal service programs which must comply with the Act and additional deaveraging rules promulgated by the Commission.

This argument is specious on several levels. First, a large reason why it has taken so long for the Commission to act on universal service is that it had to overcome resistance from ILECs to any change in the mechanism. Second, the states have had the authority to implement their own universal service mechanisms and many already have done so or have undertaken many of the necessary steps for implementation. Third, those states that have not yet taken such steps can do so expeditiously because they now have available to them examples from other states as well as a forward-looking costing model developed by the Commission with major input from both the local exchange and interexchange industries. Finally, U S West's reference to deaveraged UNE rates is not relevant. Deaveraged UNE rates will not immediately yield deaveraged retail rates. Eventually, granting competitive entrants access to loops at rates that reflect the ILECs' underlying costs will foster competition, but there is unlikely to be flash cut retail rate deaveraging since entrants initially will continue to face higher costs due to lack of scale that will minimize their ability to significantly cut retail rates in the short run. In the long run, of course, nondiscriminatory access to bottleneck loops at economic cost is likely to foster exactly the type of competition that Congress envisioned. But there is no need to provide ILECs welfare funds during the transition.

In sum, the arguments made by ILECs for an indefinite, open-ended hold-harmless provision must be rejected. The Joint Board and Commission should move expeditiously to sunset the hold-harmless provision one year after its implementation, on December 31, 2000.

Respectfully submitted,
MCI WorldCom, Inc.

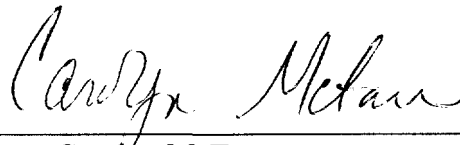
A handwritten signature in cursive script that reads "Chuck Goldfarb".

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December 15, 1999

Certificat of Service

I, Carolyn McTaw, hereby certify that I have on this 15th day of December 1999, served via U.S. First Class Mail, postage prepaid, or Hand Delivered, a copy of MCI WorldCom, Inc.'s reply comments "In the Matter of Federal-State Joint Board on Universal Service, and on the Interim Hold-Harmless Provision," CC Docket 96-45, and FCC 99J-2, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.

A handwritten signature in cursive script, reading "Carolyn McTaw", written in dark ink. The signature is positioned above a horizontal line.

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